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मध्यप्रदेश राजपत्र

(असाधारण)
प्राधिकार से प्रकाशित

क्रमांक 524]

भोपाल, सोमवार, दिनांक 23 दिसम्बर 2019—पौष 2, शक 1941

विधि और विधायी कार्य विभाग

भोपाल, दिनांक 23 दिसम्बर 2019

क्र. 21937-341-इक्कीस-अ(प्रा.).—भारत के संविधान के अनुच्छेद 348 के खण्ड (3) के अनुसरण में, मध्यप्रदेश नगरपालिक विधि (संशोधन) विधेयक, 2019 (क्रमांक 38 सन् 2019) का अंग्रेजी अनुवाद राज्यपाल के प्राधिकार से एतद्वारा प्रकाशित किया जाता है.

मध्यप्रदेश के राज्यपाल के नाम से तथा आदेशानुसार,
राजेश यादव, अतिरिक्त सचिव.

MADHYA PRADESH BILL

No. 38 OF 2019

THE MADHYA PRADESH NAGARPALIK VIDHI (SANSHODHAN) VIDHEYAK, 2019

A Bill Further to amend the Madhya Pradesh Municipal Corporation Act, 1956 and the Madhya Pradesh Municipalities Act, 1961.

Be it enacted by the Madhya Pradesh Legislature in the seventieth year of the Republic of India as follows :—

Short title.

1. This Act may be called the Madhya Pradesh Nagarpalik Vidhi (Sanshodhan) Adhiniyam, 2019.

PART I

AMENDMENT TO THE MADHYA PRADESH MUNICIPAL CORPORATION ACT,

1956 (NO. 23 OF 1956)

Amendment to
the Madhya
Pradesh Act No.
23 of 1956.

2. In the Madhya Pradesh Municipal Corporation Act, 1956 (No. 23 of 1956),-

(1) In Section 9,-

(a) in sub-section (1), for clause (a), the following clause shall be substituted, namely:-

“(a) a Mayor elected by the elected Councillors from the municipal wards;”;

(b) for sub-section (4), the following sub-section shall be substituted, namely:-

“(4) If any ward of any municipal area fails to elect a Councillor, fresh election proceedings shall be commenced for such ward within six months to fill the seat and until the seat is filled it shall be treated as casual vacancy:

Provided that proceedings of election of Speaker, Mayor, any departmental Committees (or any of the Committee shall not be stayed, pending the election of such seat.”.

(2) In Section 10, in sub-section (4), in the first proviso, for the words “six months”, the words “two months” shall be substituted.

(3) In Section 12,-

(i) after clause (c), the following clause shall be inserted, namely:-

“(d) is not registered in any electoral roll related to a Panchayat or municipal area of a municipality;”;

(ii) after the proviso, the following explanations shall be added, namely:-

“Explanation. 1-For the purpose of this Section “Panchayat” shall have the same meaning as assigned to it in clause (xvii) of Section 2 of the Madhya Pradesh Panchayat Raj Avam Gram Swaraj Adhiniyam, 1993 (No. 1 of 1994).

Explanation. 2-For the purpose of this section “municipal area” shall have the same meaning as assigned to it in clause (18-a) of section 3 of the Madhya Pradesh Municipalities Act, 1961 (No. 37 of 1961).”.

- (4) In section 14,-
 - (a) in sub-section (1), the words “and Mayors” shall be omitted;
 - (b) in sub-section (2), the words “and Mayors” shall be omitted.
- (5) In section 14-A, in sub-section (1), for the word “Mayor”, the word “Councillor” shall be substituted.
- (6) In section 14-B, for the word “Mayor”, the word “Councillor” shall be substituted.
- (7) In section 14-C, the words “or a Mayor” shall be omitted.
- (8) In section 15,-
 - (a) the words “or Mayor” shall be omitted;
 - (b) for the proviso, the following proviso shall be substituted, namely:-
 “Provided that no person shall vote more than once in any election of the Councillors.”.
- (9) In section 16, sub-section (4) shall be deleted.
- (10) In section 17,-
 - (a) in sub-section (1),-
 - (i) in the marginal heading, the words “or Mayor” shall be omitted;
 - (ii) in the opening paragraph, the words “ or Mayor” shall be omitted;
 - (iii) in clause (bb), the words “or Mayor” shall be omitted;
 - (b) in sub-section (2),-
 - (i) in the marginal heading, the words “or Mayor” shall be omitted;
 - (ii) in the opening paragraph, the words “or Mayor” shall be omitted;
 - (iii) in clause (e), the words “or Mayor” shall be omitted;
 - (c) in sub-section (3), for the words “Councillor or Mayor” wherever they occur, the word “Councillor” shall be substituted.
- (11) In section 17-B,-
 - (a) in the marginal heading, the words “the Mayor and” shall be omitted;
 - (b) in sub-section (1), for the opening paragraph, the following paragraph shall be substituted, namely:-
 “Every Councillor shall before taking part in the election of Speaker in the first meeting of the Corporation or before entering upon his office, as the case may be, shall make and subscribe in the presence of the officer authorised by the State Election Commission an oath or affirmation in the following form:-”;

- (c) for sub-section (2), the following sub-section shall be substituted, namely:-

“(2) If the Councillor does not take an oath under sub-section (1), it shall be deemed that such Councillor has not assumed his office:

Provided that except with the permission of the Divisional Commissioner, if any Councillor does not take an oath within three months from the date of his election or nomination, his seat shall be deemed to have been vacant ipso facto.”.

- (12) In section 18,-

- (a) for the marginal heading, the following marginal heading shall be substituted, namely:-

“Election of Speaker and Mayor”;

- (b) for sub-section (1), the following sub-section shall be substituted, namely:-

“(1) The State Election Commission shall, within fifteen days of the notification of election under section 22, call a meeting of the elected Councillors for the purpose of electing a Speaker and Mayor.”;

- (c) for sub-section (3), the following sub-section shall be substituted, namely:-

“(3) Meeting under sub-section (1) shall be called in such manner as may be determined by the State Election Commission, which shall be presided over by the officer authorised by the State Election Commission. The presiding officer shall not have the right to vote and in case of equality of votes the result shall be decided by lot in such manner as prescribed.”.

- (13) In section 20, in the Explanation, after the words “the Speaker”, the words “and the Mayor” shall be inserted.

- (14) In section 23-A,-

- (a) in the marginal heading and in sub-section (1), after the word “Speaker” wherever it occurs, the words “or Mayor” shall be inserted;
- (b) in clause (ii) of sub-section (2), for the word “Mayor”, the words “Speaker, Mayor”, shall be substituted.

- (15) Section 24 shall be deleted.

- (16) In section 441, in sub-section (2), in clause (b), for sub-clause (iii), the following sub-clause shall be substituted, namely:-

“(iii) in the case of election of Mayor, by any elected Councillor.”.

PART II AMENDMENT TO THE MADHYA PRADESH MUNICIPALITIES ACT, 1961 (NO. 37 OF 1961)

Amendment to
the Madhya
Pradesh Act No.
37 of 1961.

3. In the Madhya Pradesh Municipalities Act, 1961 (No. 37 of 1961),-

- (1) In section 19,-

- (a) in sub-section (1), for clause (a), the following clause shall be substituted, namely:-

“(a) President, that is chairperson, elected by the elected Councillors of Municipal Council or Nagar Parishad;

- (b) for sub-section (4), the following sub-section shall be substituted, namely:-

“(4) If any ward of any municipal area fails to elect a Councillor, fresh election proceedings shall be commenced for such ward within six months to fill the seat and until the seat is filled, it shall be treated as casual vacancy:

Provided that proceedings of election of President or Vice-President, or any of the Committees under the Act shall not be stayed, pending the election of such seat.”.

- (2) In section 20, in sub-section (2), in clause (b), for sub-clause (iii), the following sub-clause shall be substituted, namely:-

“(iii) in the case of election of President by any Councillor;”.

- (3) In section 29, in sub-section (4), in the first proviso, for the words “six months”, the words “two months” shall be substituted.

- (4) In section 30,-

- (i) after clause (c), the following clause shall be inserted, namely:-

“(d) is not registered in any electoral roll related to a Panchayat or municipal area of a municipal corporation;”;

- (ii) after the proviso, the following explanations shall be added, namely:-

“Explanation. 1-For the purpose of this section “Panchayat” shall have the same meaning as assigned to it in clause (xvii) of section 2 of the Madhya Pradesh Panchayat Raj Avam Gram Swaraj Adhiniyam, 1993 (No. 1 of 1994).

Explanation. 2- For the purpose of this section “municipal area” shall have the same meaning as assigned to it in clause (34-a) of section 5 of the Madhya Pradesh Municipal Corporation Act, 1956 (No. 23 of 1956).”.

- (5) In section 32,-

(a) in sub-section (1), the words “President and” shall be omitted;

(b) in sub-section (2), the words “Presidents and” shall be omitted.

- (6) In section 32-A, in sub-section (1), for the word “President” wherever it occurs, the word “Councillor” shall be substituted.

- (7) In section 32-B, for the word “President”, the word “Councillor” shall be substituted.

- (8) In section 32-C, the words “or President” shall be omitted.

- (9) In section 33,-

(a) in the opening paragraph, the words “or President” shall be omitted;

(b) for the existing proviso, the following proviso shall be substituted, namely:-

“Provided that no person shall vote more than once in any election of the Councillor.”.

- (10) In section 35, the words “election as a President or” shall be omitted.

(11) In section 43,-

- (a) in the marginal heading, before the words "Vice President", the words, "the President and" shall be inserted;
- (b) for sub-section (1), the following sub-section shall be substituted, namely:-
 "(1) The State Election Commission shall cause the election of President and Vice President immediately after every election of Municipal Council and Nagar Parishad in such manner as may be prescribed. The elected members of the Council shall elect a President and a Vice-President in the prescribed manner, from elected members in its first meeting as specified in section 55.";
- (c) in sub-section (3), before the words "Vice-President", the words "the President and" shall be inserted.

(12) In section 43-A,-

- (a) in the marginal heading, before the words "Vice-President", the words, "the President or" shall be inserted;
- (b) in sub-section (1), before the words "Vice-President" wherever they occur, the words, "the President or" shall be inserted;
- (c) in sub-section (2), in clause (ii), for the word "President", the words "President, Vice-President" shall be substituted.

(13) Section 47 shall be deleted.

(14) For section 55, the following section shall be substituted, namely:-

**First meeting
after general
election.**

- "55. (1) The State Election Commission shall, within 15 days from the date of the notification of election under section 45, call a meeting of the elected Councillors for the purpose of electing a President and Vice-President.
- (2) Meeting under sub-section (1) shall be called in such manner as may be determined by the State Election Commission, which shall be presided over by the officer authorised by the State Election Commission. The presiding officer shall not have the right to vote and in case of equality of votes, the result shall be decided by lot in such manner as prescribed.

(15) In section 56, the figure "47" shall be omitted.

(16) In section 62, in sub-section (3), in the proviso to clause (iii), the word, figure and comma "or 47," shall be omitted.

(17) In section 63, in the proviso, the words "Vice President, or", shall be omitted.

(18) In section 328, in sub-section (1), in clause (b), before the word "Vice- President" wherever they occur, the words "President and" shall be inserted.

**Repeal and
saving.**

4.(1) The Madhya Pradesh Nagarpalik Vidhi (Sanshodhan) Adhyadesh, 2019 (No. 7 of 2019) is hereby repealed.

(2) Notwithstanding the repeal of the said Ordinance, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provision of this Act.

STATEMENT OF OBJECTS AND REASONS

At present the elections of the Chairman and Mayor of the Municipal bodies are held through a direct system. Due to direct election system of Chairman and Mayor, their co-ordination with the elected councillors are lacking, as a result of which the decisions on many important matters often are not made, therefore development of cities are affected. Earlier the Chairmen and Mayors were elected by elected councillors. The Chairmen and Mayors elected by elected councillors had majority, therefore the decision and work were performed smoothly. Therefore, suitable amendments are proposed for election of Chairmen and Mayors by elected councillors.

2.Excessive increase in the population in area adjacent to the urban local bodies has been traced in last years. In this condition, in view of providing basic facilities to the citizens, extension of limit of urban local bodies is necessary but urban local body generally initiate process of limit extension/ward division before the election as per need. In view of the provision of 6 months to include or exclude area for reformation of wards, time required to start the process is 8-9 months earlier, because after disposal of objections/suggestions received after previous publication regarding limit extension, period of at least 45 days is required for final publication. In the same way, after extension, afresh delimitation of wards requires a period of 30 days. In this view period of 6 months is more, therefore instead of 6 months, 2 months is substituted.

3.Section 5 "Registration of voters of a village" of the Madhya Pradesh Panchayat Raj Avam Gram Swaraj Adhiniyam, 1993 (No. 1 of 1994) provides that "No person shall be entitled to be registered in the list of voters if he is registered in the electoral roll relating to any other local authority." Therefore, a voter can not be a voter for two places i.e. a Corporation or Municipality as well as a Panchayat. Due to no similar provision in section 12 of the Madhya Pradesh Municipal Corporation Act, 1956 (No. 23 of 1956) and in section 30 of the Madhya Pradesh Municipalities Act, 1961 (No. 37 of 1961), the registration authority of Corporations and Municipalities presently do not have the powers to delete the name of the voter from other place, if the name of the same voter is in Corporation, Municipality and Panchayat. In order to make a corresponding provision of registration of voters, in the Corporation or Municipality election, suitable amendment has been proposed, due to which duplicate voters will be prevented and the provisions and basic concepts of section 17 and 18 of the Representation of the Peoples Act, 1950 (No. 43 of 1950) will be ensured.

4. As the matter was urgent and the Legislative Assembly was not in session, the Madhya Pradesh Nagarpalik Vidhi (Sanshodhan) Adhyadesh, 2019 (No. 7 of 2019) was promulgated for the purpose. It is now proposed to replace the said Ordinance by an Act of the State Legislature without any modification.

5. Hence this Bill.

BHOPAL :

Dated, the 16th December, 2019.

JAIWARDHAN SINGH

Member-in-Charge.